

House Study Bill 76 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON COWNIE)

A BILL FOR

1 An Act relating to electronic delivery and posting of insurance
2 notices and documents.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 505B.1, subsection 2, Code 2015, is
2 amended to read as follows:

3 2. Subject to ~~subsection 4~~ the requirements of this section,
4 any notice to a party or any other document required under
5 applicable law in an insurance transaction or that is to serve
6 as evidence of insurance coverage may be delivered, stored, or
7 presented by electronic means so long as the notice or document
8 meets the requirements of chapter 554D.

9 Sec. 2. Section 505B.1, subsection 4, paragraph b, Code
10 2015, is amended by striking the paragraph and inserting in
11 lieu thereof the following:

12 b. The party, before giving consent, is provided with a
13 clear and conspicuous statement informing the party of the
14 following:

15 (1) The right of the party to withdraw consent to have a
16 notice or document delivered by electronic means at any time,
17 and any conditions or consequences imposed in the event consent
18 is withdrawn.

19 (2) The types of notices and documents to which the party's
20 consent applies.

21 (3) The right of a party to have a notice or document
22 delivered in paper form.

23 (4) The procedures a party must follow to withdraw consent
24 to have a notice or document delivered by electronic means or
25 to update the party's electronic mail address.

26 Sec. 3. Section 505B.1, subsection 4, Code 2015, is amended
27 by adding the following new paragraphs:

28 NEW PARAGRAPH. *0d.* On at least an annual basis, the insurer
29 notifies the party of the party's electronic mail address on
30 file with the insurer.

31 NEW PARAGRAPH. *00d.* The insurer takes measures reasonably
32 calculated to ensure that delivery of a notice or document by
33 electronic means results in receipt of the notice or document
34 by the party.

35 Sec. 4. Section 505B.1, subsection 4, paragraph d,

1 subparagraph (1), Code 2015, is amended to read as follows:

2 (1) Provides the party with a statement that describes all
3 of the following:

4 (a) The revised hardware and software requirements for
5 access to and retention of a notice or document delivered by
6 electronic means.

7 (b) The right of the party to withdraw consent without the
8 imposition of any ~~fee~~, ~~condition~~, or consequence that was not
9 disclosed under ~~paragraph "b"~~, ~~subparagraph (2)~~ at the time of
10 initial consent.

11 Sec. 5. Section 505B.1, subsection 8, paragraph c, Code
12 2015, is amended to read as follows:

13 c. Failure by an insurer to comply with subsection 4,
14 ~~paragraph~~ paragraphs "0d", "00d", and "d", may be treated,
15 at the election of the party, as a withdrawal of consent for
16 purposes of this section.

17 Sec. 6. Section 505B.1, subsection 10, Code 2015, is amended
18 to read as follows:

19 10. If the consent of a party to receive certain notices
20 or documents in an electronic form is on file with an insurer
21 before July 1, 2014, and pursuant to this section an insurer
22 intends to deliver additional notices or documents to such
23 party in an electronic form, then prior to delivering such
24 additional notices or documents electronically, the insurer
25 shall ~~notify the party~~ do all of the following:

26 a. Provide the party with a statement that describes all of
27 the following:

28 ~~a.~~ (1) The notices or documents that ~~may~~ will be delivered
29 by electronic means under this section that were not previously
30 delivered electronically.

31 ~~b.~~ (2) The party's right to withdraw consent to have
32 notices or documents delivered by electronic means without
33 the imposition of any condition or consequence that was not
34 disclosed at the time of initial consent.

35 b. Comply with all of the requirements of subsection 4,

1 paragraph "b".

2 Sec. 7. Section 505B.1, subsection 11, Code 2015, is amended
3 by striking the subsection and inserting in lieu thereof the
4 following:

5 11. An insurer shall deliver a notice or document by any
6 other delivery method permitted by law other than electronic
7 means if either of the following occurs:

8 a. The insurer attempts to deliver the notice or document by
9 electronic means and has a reasonable basis for believing that
10 the notice or document has not been received by the party.

11 b. The insurer becomes aware that the electronic mail
12 address provided by the party is no longer valid.

13 Sec. 8. Section 505B.1, Code 2015, is amended by adding the
14 following new subsection:

15 NEW SUBSECTION. 11A. An insurance producer licensed
16 pursuant to chapter 522B shall not be subject to civil
17 liability for any harm or injury that occurs as a result of a
18 party's consent to receive any notice or document by electronic
19 means or an insurer's failure to deliver a notice or document
20 by electronic means.

21 Sec. 9. Section 505B.2, Code 2015, is amended to read as
22 follows:

23 **505B.2 Posting of policies on the internet.**

24 1. Notwithstanding any contrary provision of chapter
25 554D, an insurer may mail, deliver, or post on the insurer's
26 internet site insurance documents, including policies, riders,
27 endorsements, and annuity contracts that do not contain
28 personally identifiable information. If the insurer elects
29 to post an insurance policy or endorsement on the insurer's
30 internet site in lieu of mailing or delivering the policy or
31 endorsement to the insured, the insurer must comply with all of
32 the following conditions:

33 ~~1-~~ a. The policy or endorsement must be accessible and
34 remain accessible to the insured and to the licensed insurance
35 producer of record for as long as the policy or endorsement is

1 in force.

2 2. b. After the expiration of the policy or endorsement,
3 the insurer must archive the expired policy or endorsement for
4 a period of five years or other period required by law, and
5 make the policy or endorsement available upon request.

6 3. c. The policy or endorsement must be posted in a manner
7 that enables the insured and the licensed insurance producer
8 of record to print and save the policy or endorsement using
9 programs and applications that are widely available on the
10 internet and free to use.

11 4. d. The insurer must provide the following information
12 in, or simultaneously with, each declarations page provided at
13 the time of issuance of the initial policy and any renewal of
14 that policy:

15 a. (1) A description of the exact policy or endorsement
16 purchased by the insured.

17 b. (2) ~~A method by which the insured may obtain description~~
18 of the insured's right to receive, upon request and without
19 charge, a paper copy of the insured's policy or endorsement by
20 mail.

21 c. (3) An internet address where the insured's policy or
22 endorsement is posted.

23 e. The insurer, upon request and without charge, must
24 deliver a paper copy of the policy or endorsements to the
25 insured by mail.

26 5. f. The insurer must provide notice, in the format
27 preferred by the insured, of any changes to the policy or
28 endorsement, the insured's right to obtain, upon request and
29 without charge, a paper copy of such policy or endorsement,
30 and the internet address where such policy or endorsement is
31 posted.

32 2. Nothing in this section shall be construed to affect
33 the timing or content of any notice or document required to be
34 provided or made available to any insured under applicable law.

35 EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 This bill relates to the electronic delivery and posting of
4 insurance notices and documents. The bill provides that the
5 electronic delivery of such notices and documents by insurers
6 must meet the requirements of Code section 505B.1 as well as
7 the requirements of Code chapter 554D, which relates generally
8 to electronic transactions.

9 The bill provides that an insurance notice or document may
10 be delivered by electronic means if, before giving consent,
11 the party who is to receive the notice (an applicant, insured,
12 policyholder, or annuity contract holder) is provided with a
13 statement explaining the right to withdraw consent to such
14 delivery at any time, the types of notices and documents to
15 which consent applies, the right to have the notices and
16 documents in paper form, and the procedures to withdraw consent
17 or update the party's electronic mail address. The insurer
18 must also notify the party annually of the party's electronic
19 address that is on file for the party and take reasonable
20 measures to ensure that electronic delivery to the party is
21 successful.

22 If there is a change in hardware or software requirements
23 for access to or retention of electronic notices or documents,
24 the insurer must inform the party of the changes and the right
25 of the party to withdraw consent. Failure of an insurer to
26 comply with these requirements may be treated as a withdrawal
27 of consent.

28 If the insurer intends to electronically deliver additional
29 notices or documents to a party who has consented to such
30 delivery, the insurer must provide the party with a statement
31 describing what additional items will be electronically
32 delivered, and reiterate what consent means and the party's
33 right to withdraw such consent.

34 An insurer is required to deliver a notice or document by any
35 other delivery method permitted by law if the insurer attempts

1 an electronic delivery and reasonably believes the party did
2 not receive the notice or document, or the insurer becomes
3 aware that the party's electronic mail address is no longer
4 valid.

5 An insurance producer licensed pursuant to Code chapter 522B
6 shall not be subject to civil liability for any harm or injury
7 that occurs because of a party's consent to receive electronic
8 delivery or an insurer's failure to electronically deliver a
9 notice or document.

10 A policy or endorsement posted on an insurer's internet site
11 instead of being mailed or delivered must be accessible to
12 the insured and to the licensed insurance producer of record
13 for as long as the policy or endorsement is in force, must be
14 archived for a period of five years or other period required
15 by law, and must be posted in a manner that allows the insured
16 and the insurance producer to print the policy or endorsement.
17 The insurer must also provide information upon issuance of the
18 policy or upon renewal about the insured's right to request a
19 paper copy of the policy or endorsement by mail without charge.

20 The bill provides that nothing in Code section 505B.2 shall
21 be construed to affect the timing or content of any notice
22 or document required to be provided or made available to any
23 insured under applicable law.